

**IN THE WESTERN DISTRICT COURT OF OKLAHOMA
STATE OF OKLAHOMA**

(1) MANAF CHEHABI,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>CIV-19-17-SLP</u>
)	
(1) CONTINENTAL CASUALTY CO.,)	
(2) PATRIOT EQUIPMENT, LTD, and)	
(3) ENRIQUEZ CHAPA,)	Oklahoma Case No. CJ-2018-4401
)	Judge Richard Ogdon
Defendants.)	

NOTICE OF REMOVAL

Please take notice that the Defendant, Continental Casualty Co. (hereinafter “Continental”), is entitled to remove this action from the District Court of Oklahoma, State of Oklahoma, to the United States District Court for the Western District of Oklahoma, pursuant to 28 U.S.C. §§1441(a), 1446, & 1453, based upon the following:

I. SUMMARY OF PROCEEDINGS

1. Continental is the only Defendant which has been served with Summons in an action filed in the District Court of Oklahoma County, State of Oklahoma, bearing the style *Manaf Chehabi, Plaintiff, vs. Continental Casualty Co., Patriot Equipment, Ltd., and Enriquez Chapa, Defendants*, and bearing Docket No. CJ-2018-4401 of that Court (hereinafter the “removed action”).

2. Plaintiff commenced the removed action by filing his Petition with the state court August 14, 2018.

3. Plaintiff obtained service on Continental by serving Summons on the

Oklahoma Insurance Commissioner, which completed service by forwarding the Summons to Continental by a letter dated December 17, 2018. *See*, 36 O.S. 2011, §§620, 621

4. Plaintiff's action is based upon a motor vehicle accident occurring October 5, 2016, in Oklahoma City, OK; the accident involved the vehicle in which Plaintiff was a passenger and another vehicle operated by the Defendant, Enriquez Chapa, allegedly the employee of Defendant Patriot Equipment, Ltd.

5. Plaintiff purports to assert a claim against Continental alleging that it "was the insurance carrier for Defendant Patriot Equipment, Ltd., and Enriquez Chapa," Exhibit 1, Plaintiff's Petition, ¶5, p. 2.

II. REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

6. At the time this action was filed and at the present time, Plaintiff was and is a citizen of the State of Oklahoma and a resident of Oklahoma County.

7. At the time this action was filed and at the present time, Defendant Continental was and is a corporation, incorporated under the laws of the state of Illinois, with its principal place of business in the state of Illinois; Continental is not a citizen of Oklahoma and is completely diverse from Plaintiff. 28 U.S.C. §§1332(a)(1), (c)(1) & 1441.

8. At the time this action was filed and at the present time, the Defendant Patriot Equipment, Ltd., was and is a corporation incorporated under the laws of the foreign state of Canada, with its principal place of business in the Province of Alberta, Canada; Patriot Equipment, Ltd., is not a citizen of Oklahoma and is completely diverse from Plaintiff. 28 U.S.C. §§1332(a)(2), (c)(1) & 1441.

9. At the time this action was filed and at the present time, Defendant Enriquez

Chapa was and is a citizen and resident of the State of Texas; Enriquez Chapa is not a citizen of Oklahoma and is completely diverse from Plaintiff. 28 U.S.C. §§1332(a)(1) and 1441.

10. Plaintiff seeks to recover damages, specifically alleging “all of which are in excess of the amount required for diversity jurisdiction pursuant to 28 U.S.C. §1332.” Exhibit 1, Plaintiff’s Petition, ¶6(E), p. 2.

11. This action is properly removed by Continental because none of the named Defendants is a citizen of Oklahoma, the State of Plaintiff’s citizenship and residence, and because Continental is the only Defendant which has been served with Summons. 28 U.S.C. §1441(b).

12. Continental was served by a letter from the Oklahoma Insurance Commissioner dated December 17, 2018; this Notice of Removal is timely because it is filed within thirty (30) days of service pursuant to 28 U.S.C. §1446(b); *see*, 36 O.S. 2011, §§620, 621.

13. This action is properly removed to this Court because it was commenced in the District Court of Oklahoma County, State of Oklahoma, and is therefore within the judicial district for this Court. 28 U.S.C. §§116(e) & 1441(a).

14. This is the type of action in which the United States District Courts have original jurisdiction, there being diversity of citizenship between Plaintiff and each of the named Defendants, and the jurisdictional amount being placed at issue by Plaintiff’s allegations; accordingly, Continental has properly removed this action to this Court from the District Court of Oklahoma County, State of Oklahoma, pursuant to 28 U.S.C. §§1332(a),

1441, & 1446.

III. ADDITIONAL PROCEDURAL MATTERS REGARDING REMOVAL

15. Copies of all process, pleadings, and orders served upon Defendant, Continental, in the removed state court action as well as a copy of the docket sheet for that Court are attached pursuant to 28 U.S.C. § 1441(a). Exhibits 1, 2, 3, & 4.

16. This Notice of Removal is being served this date on Plaintiff's counsel of record pursuant to 28 U.S.C. § 1441(d).

17. A true and correct copy of this Notice of Removal is being filed this date with the Clerk of the District Court of Oklahoma County, State of Oklahoma pursuant to 28 U.S.C. § 1441(d).

WHEREFORE, PREMISES CONSIDERED, the Defendant, Continental Casualty Co., hereby removes this action from the District Court of Oklahoma County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma, pursuant to 28 U.S.C. §§ 1441(a), 1446 & 1453.

Respectfully submitted,

SECREST, HILL BUTLER & SECREST

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CERTIFICATE OF MAILING

I hereby certify that on the 8th day of January, 2019, I electronically transmitted the foregoing Notice of Removal to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following via ECF:

Robert N. Ylla, Jr.
rylla@wyglawfirm.com
Attorney for Plaintiff

I hereby certify that on the 8th day of January, 2019, I transmitted the foregoing Notice of Removal, with Exhibits, to the Oklahoma Court Clerk for filing via facsimile.

s/ Edward J. Main

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